

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-96-T - ORDER NO. 2004-451
SEPTEMBER 28, 2004

IN RE: Petition of Checker Yellow Cab Company,)	ORDER GRANTING
Inc., Blue Ribbon Cab Company, Inc., Yellow)	REQUEST FOR
Cab Company of Greenville, Inc., North Area)	HEARING ON PETITION
Taxi, Inc., Yellow Cab Company of)	FOR RULEMAKING
Charleston, Inc. for Rulemaking.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Checker Yellow Cab Company, Inc., Blue Ribbon Cab Company, Inc., Yellow Cab Company of Greenville, Inc., North Area Taxi, Inc., and Yellow Cab Company of Charleston, Inc. (herein the "Petitioners") petitioning the Commission to Amend 26 S.C. Regs. 103-222.

In the initial Petition in this matter, the Petitioners claimed that the language of Regulation 103-222(1) is being interpreted by their insurance carriers as creating an employer-employee relationship between the Petitioners and their taxicab drivers. That Regulations reads in relevant part that:

1. For Drivers. The drivers of leased motor vehicle power units shall be directly supervised and controlled by the lessee. The person who, directly or indirectly, shall supervise or regulate the manner and method of shipment and the use of the motor vehicle or vehicles involved shall be presumed to have a right to control, direct, or dominate such shipment.

Petitioners have further claimed that their drivers are in fact independent contractors but that the use of the terms "controlled" and "control" in the regulation are

being interpreted by the Petitioners' insurance carriers as creating an employer-employee relationship between the Petitioners and their drivers. The effect of this interpretation is that these insurance companies are requiring the Petitioners to carry workers compensation insurance coverage on their drivers. Petitioners claim that they believe that this interpretation and the effect of the regulation in creating an employer-employee relationship are unintended.

Petitioners asked in their initial Petition that this Commission correct what the Petitioners perceived to be this unintended affect of the Regulation by adding a third paragraph to Regulation 103-222 reading as follows:

3. Nothing in this regulation shall be construed in any way to create or be used as evidence of an employer/employee relationship between any lease drivers and lessees of certificate holders.

In Order Number 2004-319, the Commission denied this Application. Contained within that Order was a directive that the Commission Staff research the issues raised by the Petitioners concerning insurance rates in the taxicab industry and the affect of Regulation 103-222 on those rates.

The Staff contacted the Petitioners and presented information to the Commission provided both by the Petitioners and other members of the taxicab industry. The Staff additionally provided certain materials to the Commission regarding workers compensation laws and regulations in South Carolina as well as recent legislative efforts to amend these laws.

After reviewing these materials, the Commission found that even if it were to find that it was in the public's best interest to modify Regulation 103-222 that it would have

no affect on worker's compensation rates for taxicab drivers in South Carolina. The Commission therefore issued a second Order in this matter, Order No. 2004-429 which affirmed the Commission's previous Order No. 2004-319.

Petitioners have subsequently requested a hearing in this matter, claiming that they are in possession of certain additional information and documents which could be presented in a formal hearing that support their previously denied request for rulemaking.

We find that it is in the best interests of justice to order a hearing in this matter to provide the Petitioners with a forum in which to present any such evidence or documents.

As previously stated by the Commission in this matter, the Petitioners have shown that the insurance rates which they are required by law to obtain in order to operate in South Carolina have risen significantly in recent years and may be placing the health of the industry in danger. We therefore find that the Petitioners should have the opportunity to present any information to the Commission which they feel may be relevant to their request to have this Commission undertake rulemaking to assist in managing these rates.

The Commission staff is therefore ordered to set this matter for a public hearing.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
O'Neal Hamilton, Vice-Chairman

(SEAL)